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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,171	09/23/2003	Brian Gonsalves	1033-SS00419	1698
34456	7590	12/13/2005	EXAMINER	
TOLER & LARSON & ABEL L.L.P. 5000 PLAZA ON THE LAKE STE 265 AUSTIN, TX 78746			HUYNH, BA	
			ART UNIT	PAPER NUMBER
			2179	
DATE MAILED: 12/13/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/669,171	Applicant(s) GONSALVES ET AL.	
	Examiner Ba Huynh	Art Unit 2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swart et al.
 - As for claim 1: Swart et al (herein Swart) teach a computer implemented method and corresponding apparatus of network services comprising a video content source operable to output an information stream in response to a delivery request (0043-0047) and further operable to discontinue output of the information stream in response to a cease request (0071), the video content source having a unique address (inherently include in the teaching of web site and online databases), an engine for maintaining a list of available content sources comprising video content sources (0045, 0048), an access engine operable to receive user input from a user device (0048), the user input includes the search results mapable to the unique address and indicating a desire for the video stream (0045, 0046), and service engine coupled to the access engine and operable to initiate establishment of at least a portion of a point-to-point microwave communication link between the user device and the video source (0101), the network service engine further operable to initiate sending of the delivery request (0043-0047) and to track a metric associated with user access to the information system (0056). Although Swart clearly teach point-to-point microwave communication link between the user device and the video source (101, 107), and that the user device and the video source can be connected through Wide Area Network/Internet and can be supported by any protocol (0065, 0092, 0096, 0107,

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0112). Since point-to-point protocol communication link, which was developed by the Internet Engineering Task and has become the de facto Wide Area network link protocol, implementation of the point-to-point protocol communication link between the user device and the video source is inherently included in Swart. Even if it is not, implementation of point-to-point protocol communication link is well known in the art of information processing (see US 2005/0157711, par 0007, 0035; US 2005/0180429, par 0204). It would have been obvious to one of skill in the art, at the time the invention was made, to combine the well known implementation of point-to-point protocol communication link to Swart's teaching of communication protocol. Motivation of the combining is for the obvious advantage of being well recognized protocol and as suggested by Swart as set forth above (i.e., the system may support any protocol).

- As for claim 2: An authentication engine communicatively coupled to the access unit and operable to consider an initial set of credential received from a user (0056, 0057), the authentication engine operable to establish link to the network in response to the authorization of the initial set of credentials.
- As for claims 3, 18: A telephone interface associated with the access engine (0048). Swart fails to clearly teach the voice interface. However Official notice is taken that implementation of phone voice interface is well known and would have been obvious to one of skill in the art for communication with the service provider as a supplement input interface.

- As for claim 4: A format converter associated with the access engine, operable to translate the video stream into format playable by the user terminal (0053).
- As for claim 5: The service engine operable to facilitate point-to-point protocol over Ethernet communication link (0076, 0101).
- As for claim 6: The service engine operable to send the cease request (0071).
- As for claim 7: The system further includes a plurality of remotely located video content sources each having a unique address (0044, 0045, 0048).
- As for claim 8: Per Swart, user may retrieve video contents related to TV series, documentaries, educational, juvenile, live event, geographical specific content, etc (0073). Implementation of child case facility and home surveillance video contents would have been obvious in light of Swart teaching above.
- As for claim 9: The system further includes a device engine for determining the device used by the user and formatting the video content accordingly (0052).
- As for claim 10: The metric is selected from a group consisting of information throughput and connection duration (0020, 0056, 0059, 0109).
- As for claims 11, 16, 24: The system further comprises a billing engine to generate an invoice based on the metric (0059, 0072).
- As for claim 12: Per Swart, the system includes a billing engine to generate an invoice for billing the consumer (0059, 0072). Implementation of receiving method of payment from the consumer would have been obvious method of doing business.
- As for claim 13: Per Swart, the system comprises wireless communication (0091), point-to-point protocol over Ethernet (0076, 0101). Implementation of point-to-point

- protocol over asynchronous transmission is well known and would have been obvious to one of skill in the art for transferring data intermittently instead of steady stream.
- As for claim 14: The system includes wireless communication (0091), point-to-point protocol over Ethernet (0076,0101), wherein the cable modem is employed as a node of the communication link (0076).
 - As for claim 15: The list of video content available to the user is based on an editable user account information (0056).
 - As for claim 17: Swart fails to clearly teach notifying the consumer the cost of service and receiving payment prior to service. However official notice is taken that implementation of notifying the consumer the cost of service and receiving payment prior to service would have been an obvious method of doing business.
 - As for claim 19: The system further includes a list of video content sources each having a unique address (0044, 0045, 0048). The service engine operable to facilitate point-to-point protocol over Ethernet communication link (0076, 0101). Notifying the consumer the cost of service and receiving payment prior to service would have been an obvious method of doing business.
 - As for claim 20: The metric includes information throughput and connection duration (0020, 0056, 0059, 0109). Tracking quality of service and peak bandwidth would have been obvious method of doing business in video transmission.
 - As for claim 21: Implementation of converting variable bit rate to constant bit rate stream would have been obvious for better video quality and bandwidth control.

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- As for claim 22: It is implicitly included that the video content source toggle from not output to output state responsive to an accepted video transfer request.
- As for claim 23: At least a portion of the request comprises a format selected from the group consisting of a dual tone multi-frequency signal, a TCP/IP packet, and a voice signal (0045, 0064, 0074, 100).

Response to Arguments

Applicant's arguments with respect to the 35 USC 112,nd paragraph rejection of amended claim 24 have been fully considered and are persuasive. The 112-2nd rejection of claim 24 has been withdrawn.

Applicant's arguments with respect to the 35 USC 101 rejection of amended claim 24 have been fully considered and are persuasive. The 101 rejection of claim 24 has been withdrawn.

Applicant's arguments with respect to the 35 USC 102 rejections of claims 1, 2, 4-7, 9-11, 14-16 and 22-24 have been considered but are moot in view of the new ground(s) of rejection.

In response to the applicant's request of references supporting for the 35 USC 103 rejections of claims 3, 8, 12, 13, and 17-21, the references are provided below

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6813777 teaches displaying total cost to purchaser.

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US 6757911 teaches displaying total cost to purchaser.

US 5956024 teaches displaying total cost to purchaser.

US 2005/0157711 teaches displaying total cost to purchaser, point-to-point protocol in WAN/Internet, Ethernet network.

US 2005/0005190 teaches point-to-point protocol in WAN/Internet, Ethernet network.

US 2005/0265399 teaches point-to-point ATM protocol.

US 2005/0232193 teaches point-to-point ATM protocol.

US 2005/0063391 teaches monitoring quality of service.

US 2004/0215770 teaches monitoring quality of service.

US 2004/0183749 teaches monitoring quality of service.

US 2001/0055336 teaches converting variable bit rate stream to constant bit rate stream.

US 6278738 teaches converting variable bit rate stream to constant bit rate stream.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ba Huynh whose telephone number is (571) 272-4138. The examiner can normally be reached on Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ba Huynh
Primary Examiner
AU 2179
12/8/05


BA HUYNH
PRIMARY EXAMINER